



House of Representatives

File No. 719

General Assembly

January Session, 2015

(Reprint of File No. 38)

House Bill No. 6723
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 16, 2015

AN ACT CONCERNING GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (j) of section 17a-112 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (j) The Superior Court, upon notice and hearing as provided in
5 sections 45a-716 and 45a-717, as amended by this act, may grant a
6 petition filed pursuant to this section if it finds by clear and convincing
7 evidence that (1) the Department of Children and Families has made
8 reasonable efforts to locate the parent and to reunify the child with the
9 parent in accordance with subsection (a) of section 17a-111b, unless the
10 court finds in this proceeding that the parent is unable or unwilling to
11 benefit from reunification efforts, except that such finding is not
12 required if the court has determined at a hearing pursuant to section
13 17a-111b, or determines at trial on the petition, that such efforts are not
14 required, (2) termination is in the best interest of the child, and (3) (A)

15 the child has been abandoned by the parent in the sense that the parent
16 has failed to maintain a reasonable degree of interest, concern or
17 responsibility as to the welfare of the child; (B) the child (i) has been
18 found by the Superior Court or the Probate Court to have been
19 neglected, abused or uncared for in a prior proceeding, or (ii) is found
20 to be neglected, abused or uncared for and has been in the custody of
21 the commissioner for at least fifteen months and the parent of such
22 child has been provided specific steps to take to facilitate the return of
23 the child to the parent pursuant to section 46b-129 and has failed to
24 achieve such degree of personal rehabilitation as would encourage the
25 belief that within a reasonable time, considering the age and needs of
26 the child, such parent could assume a responsible position in the life of
27 the child; (C) the child has been denied, by reason of an act or acts of
28 parental commission or omission including, but not limited to, sexual
29 molestation or exploitation, severe physical abuse or a pattern of
30 abuse, the care, guidance or control necessary for the child's physical,
31 educational, moral or emotional well-being, except that nonaccidental
32 or inadequately explained serious physical injury to a child shall
33 constitute prima facie evidence of acts of parental commission or
34 omission sufficient for the termination of parental rights; (D) there is
35 no ongoing parent-child relationship, which means the relationship
36 that ordinarily develops as a result of a parent having met on a day-to-
37 day basis the physical, emotional, moral and educational needs of the
38 child and to allow further time for the establishment or
39 reestablishment of such parent-child relationship would be
40 detrimental to the best interest of the child; (E) the parent of a child
41 under the age of seven years who is neglected, abused or uncared for,
42 has failed, is unable or is unwilling to achieve such degree of personal
43 rehabilitation as would encourage the belief that within a reasonable
44 period of time, considering the age and needs of the child, such parent
45 could assume a responsible position in the life of the child and such
46 parent's parental rights of another child were previously terminated
47 pursuant to a petition filed by the Commissioner of Children and
48 Families; (F) the parent has killed through deliberate, nonaccidental act
49 another child of the parent or has requested, commanded, importuned,

50 attempted, conspired or solicited such killing or has committed an
51 assault, through deliberate, nonaccidental act that resulted in serious
52 bodily injury of another child of the parent; or (G) the parent was
53 convicted as an adult or a delinquent by a court of competent
54 jurisdiction of a sexual assault resulting in the conception of the child,
55 except a conviction for a violation of section 53a-71 or 53a-73a,
56 provided the court may terminate such parent's parental rights to such
57 child at any time after such conviction.

58 Sec. 2. Subsection (g) of section 45a-717 of the general statutes is
59 repealed and the following is substituted in lieu thereof (*Effective from*
60 *passage*):

61 (g) At the adjourned hearing or at the initial hearing where no
62 investigation and report has been requested, the court may approve a
63 petition terminating the parental rights and may appoint a guardian of
64 the person of the child, or, if the petitioner requests, the court may
65 appoint a statutory parent, if it finds, upon clear and convincing
66 evidence, that (1) the termination is in the best interest of the child, and
67 (2) (A) the child has been abandoned by the parent in the sense that the
68 parent has failed to maintain a reasonable degree of interest, concern
69 or responsibility as to the welfare of the child; (B) the child has been
70 denied, by reason of an act or acts of parental commission or omission,
71 including, but not limited to sexual molestation and exploitation,
72 severe physical abuse or a pattern of abuse, the care, guidance or
73 control necessary for the child's physical, educational, moral or
74 emotional well-being. Nonaccidental or inadequately explained
75 serious physical injury to a child shall constitute prima facie evidence
76 of acts of parental commission or omission sufficient for the
77 termination of parental rights; (C) there is no ongoing parent-child
78 relationship which is defined as the relationship that ordinarily
79 develops as a result of a parent having met on a continuing, day-to-
80 day basis the physical, emotional, moral and educational needs of the
81 child and to allow further time for the establishment or
82 reestablishment of the parent-child relationship would be detrimental
83 to the best interests of the child; (D) a child of the parent [of a child

84 who (i) has been] (i) was found by the Superior Court or the Probate
85 Court to have been neglected, abused or uncared for, as those terms
86 are defined in section 46b-120, in a prior proceeding, or (ii) is found to
87 be neglected, abused or uncared for and has been in the custody of the
88 commissioner for at least fifteen months and such parent has been
89 provided specific steps to take to facilitate the return of the child to the
90 parent pursuant to section 46b-129 and has failed to achieve such
91 degree of personal rehabilitation as would encourage the belief that
92 within a reasonable time, considering the age and needs of the child,
93 such parent could assume a responsible position in the life of the child;
94 (E) a child of the parent, [of a child,] who is under the age of seven
95 years [who] is found to be neglected, abused or uncared for, and the
96 parent has failed, is unable or is unwilling to achieve such degree of
97 personal rehabilitation as would encourage the belief that within a
98 reasonable amount of time, considering the age and needs of the child,
99 such parent could assume a responsible position in the life of the child
100 and such parent's parental rights of another child were previously
101 terminated pursuant to a petition filed by the Commissioner of
102 Children and Families; (F) the parent has killed through deliberate,
103 nonaccidental act another child of the parent or has requested,
104 commanded, importuned, attempted, conspired or solicited such
105 killing or has committed an assault, through deliberate, nonaccidental
106 act that resulted in serious bodily injury of another child of the parent;
107 or (G) the parent was convicted as an adult or a delinquent by a court
108 of competent jurisdiction of sexual assault resulting in the conception
109 of a child except for a violation of section 53a-71 or 53a-73a provided
110 the court may terminate such parent's parental rights to such child at
111 any time after such conviction.

112 Sec. 3. Subsection (b) of section 45a-717 of the general statutes is
113 repealed and the following is substituted in lieu thereof (*Effective from*
114 *passage*):

115 (b) If a [party] respondent parent appears without counsel, the court
116 shall inform such [party] respondent parent of [the party's] his or her
117 right to counsel and upon request, if he or she is unable to pay for

118 counsel, shall appoint counsel to represent such [party] respondent
 119 parent. No [party] respondent parent may waive counsel unless the
 120 court has first explained the nature and meaning of a petition for the
 121 termination of parental rights. Unless the appointment of counsel is
 122 required under section 46b-136, the court may appoint counsel to
 123 represent or appear on behalf of any child in a hearing held under this
 124 section to speak on behalf of the best interests of the child. If the
 125 respondent parent is unable to pay for [such respondent's] his or her
 126 own counsel or if the child or the parent or guardian of the child is
 127 unable to pay for the child's counsel, in the case of a Superior Court
 128 matter, the reasonable compensation of counsel appointed for the
 129 respondent parent or the child shall be established by, and paid from
 130 funds appropriated to, the Judicial Department and, in the case of a
 131 Probate Court matter, the reasonable compensation of counsel
 132 appointed for the respondent parent or the child shall be established
 133 by, and paid from funds appropriated to, the Judicial Department,
 134 however, in the case of a Probate Court matter, if funds have not been
 135 included in the budget of the Judicial Department for such purposes,
 136 such compensation shall be established by the Probate Court
 137 Administrator and paid from the Probate Court Administration Fund.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	17a-112(j)
Sec. 2	<i>from passage</i>	45a-717(g)
Sec. 3	<i>from passage</i>	45a-717(b)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes a technical change conforming statute to current practice, does not result in a fiscal impact.

House "A" makes clarifying changes and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6723 (as amended by House "A")******AN ACT CONCERNING GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.*****SUMMARY:**

By law, the Superior Court or probate court may terminate parental rights when it is in the child's best interest and the child, due to severe physical abuse or a pattern of abuse, has been denied care, guidance, or control necessary for his or her physical, educational, moral, or emotional well-being.

This bill specifically addresses three instances involving abuse. It allows the court to terminate parental rights, when it is in the child's best interest and the child:

1. has been found by the Superior Court or probate court in a prior proceeding to have been abused;
2. is found to be abused and has been in the custody of the children and families (DCF) commissioner for at least 15 months and the child's parent has not rehabilitated enough to encourage the reasonable belief, based on the child's age and needs, that he or she could assume a responsible position in the child's life; or
3. is abused and under age seven, and his or her parent has not rehabilitated, as described above, and has had his or her parental rights for another child terminated by a DCF petition.

The law already gives the court the power to terminate parental rights under these same three circumstances based on findings of

neglect. Prior to the passage of PA 11-240, a court finding of neglect could include a finding of abuse and thus these three provisions applied to conduct that amounted to neglect or abuse. But PA 11-240 removed abusive conduct from the definition of neglect, limiting these findings to cases involving neglect. The bill clarifies that the court has the same powers relating to termination of parental rights based on findings of abuse as it did prior to passage of PA 11-240.

Additionally, the bill specifies that, in termination of parental rights proceedings, the respondent parent is the only party that (1) has the right to counsel, (2) upon request, may have counsel appointed by the court if he or she is unable to pay, and (3) cannot waive counsel until the court first explains the nature and meaning of a termination of parental rights petition.

The bill also makes minor technical and conforming changes.

*House Amendment "A" (1) specifies the rights of respondent parents in termination of parental rights proceedings and (2) makes minor technical and conforming changes.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Committee on Children

Joint Favorable

Yea 10 Nay 0 (02/26/2015)